

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

GREGG A. BIGDA,

Defendant.

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Criminal No. 18-30051-MGM

REVISED PROCEDURAL ORDER
RE: TRIAL

March 17, 2021

MASTROIANNI, U.S.D.J.

Trial in this matter is scheduled to commence on **Monday, November 29, 2021 at 9:00 a.m.** in Hampden Courtroom, U.S. District Court, 300 State Street, Springfield, Massachusetts. Jury selection will commence that day and, if necessary, will continue on **Tuesday, November 30, 2020**. Openings and witness testimony will begin on **Monday, December 6, 2021**. A final pretrial conference will be held on **Wednesday, November 10, 2021 at 11:30 a.m.** in Hampden Courtroom. Unless subsequently modified by the court, the following procedures shall apply:

1. **Disclosure of Expert Witnesses** – The parties previously disclosed their expert witnesses in March of 2020, consistent with an earlier pretrial procedural order. Given the unusually long gap between the earlier disclosure of expert witnesses and the current trial date, the court will consider allowing disclosure of additional expert witnesses upon a party's motion. Any motion for leave to disclose additional expert witnesses should be filed on or before **Friday, October 8, 2021**.

2. **Motions in Limine** – Should either party wish to file additional motions in limine, they shall file such motions on or before **Friday, October 22, 2021**. Oppositions to motions in limine shall be filed by **Friday, October 29, 2021**. In necessary, the court will hear arguments about motions in limine at the final pretrial conference.
3. **Jury Questionnaire and Voir Dire Questions**
 - a. On or before **Friday, October 29, 2021**, the parties shall file any potential voir dire questions beyond those questions requested with respect to the jury questionnaire. The parties shall file oppositions to potential voir dire questions, if any, by **Friday, November 5, 2021**.
 - b. The jury questionnaire will be mailed to potential jurors and potential jurors will be instructed to return their questionnaires by a date, selected by the clerk's office, that will enable the clerk's office to make the jury questionnaires available to the parties on or before **Wednesday, November 17, 2021**.
4. **Jury Instructions and Exhibit List** – By **Friday, November 5, 2021** the parties shall file:
 - a. Any proposed preliminary jury instructions to be given before opening statements.
 - b. A **JOINT** draft version of the final substantive jury instructions to be given at the close of the case, that sets out the instructions upon which the parties agree and each party's alternative instructions where there is disagreement. Each disputed instruction should be followed by a brief statement of the opposing side's objection with supporting legal authority. In order to produce the joint instructions, the parties shall meet and confer sufficiently in advance of the required submission date with the goal of agreeing upon instructions. The court will allow parties to file updated proposed instructions should the need arise as trial proceeds.
 - c. Any proposed first version of special verdict forms. The court will allow updated filings, if necessary, as trial proceeds.
 - d. Final exhibit and witness lists using Forms AO 187 and AO 187A, which are available at <http://www.uscourts.gov/services-forms/forms>. The government is to pre-mark its exhibits using the prefix "PX-" (*e.g.*, PX-1, PX-2, etc.), the defendant is to pre-mark his exhibits with the prefix "DX-" (*e.g.*, DX-1, DX-2, etc.), and joint exhibits are to be pre-marked with the prefix "JX-" (*e.g.*, JX-1, JX-2, etc.). Any

questions concerning the pre-marking of exhibits or the completion of the exhibit and witness lists should be directed to the Deputy Clerk.

5. Trial is expected to proceed from 9:00 a.m. to approximately 4:30 p.m. daily, with a morning break at approximately 11:00 a.m. and a lunch break from 1:00 p.m. to 2:00 p.m.
6. The government will be located at the table closest to the jury box. The defendant will be located at the opposite table.
7. A total of twelve jurors will be impaneled, with two alternates. Fed. R. Crim. P. 23(b)(1), 24(c)(1-3).
8. The jury will be required to render a unanimous verdict. Fed. R. Crim. P. 31(a).
9. The court will conduct voir dire of potential jurors. Prior to the start of the trial, the court will review all jury selection procedures for compliance with up-to-date public health guidance. At this time, the court anticipates that voir dire questions will be read to the entire jury pool, potential jurors will be instructed to take notes regarding their answers, and the court will then conduct individual voir dire. During individual voir dire the court may allow the respective attorneys to ask follow-up questions to each individual juror.
10. The government has 6 peremptory challenges, and the defendant has 10 peremptory challenges. Fed. R. Crim. P. 24(b)(2). The order for peremptory challenges will be as follows: government, defendant, government, defendant, defendant, government, defendant, defendant, government, defendant, defendant, government, defendant.
11. The government and the defendant will each also receive one additional peremptory challenge that may be used only to remove alternate jurors. Fed. R. Crim. P. 24(c)(4).

12. Opening statements shall not exceed 20 minutes for each party. Closing statements shall not exceed 30 minutes for the government, 35 minutes for the defendant, and 5 minutes for the government's rebuttal. The order for opening statements will be government then defendant. The order for closing statements will be government, then defendant, and then government's rebuttal.

/s/ Mark G. Mastroianni
MARK G. MASTROIANNI
United States District Judge